IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

U.S. Appl. No.:	10/550,837	Art Unit:	1655
U.S. Filing Date:	02 August 2006	Examiner:	Qiuwen Mi
Inventor:	Crothers *et al.*	Conf. No.:	6054
Nat'l Phase of PCT/GB2004/001072		Int'l Filing Date:	12 March 2004

Title: *Pharmaceutical Composition Comprising Fungal Cell or Fragment Thereof*

Priority: British Patent Application No. 0306933.3; filed 26 March 2003

RESPONSE TO RESTRICTION REQUIREMENT

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In response to the restriction requirement dated March 16, 2007, Applicants hereby elect Group 1, claims 1 – 18 for examination. This election is made *with traverse*.

The Examiner has found that Groups I and II are not linked because JP 411092398 teaches both a fungal cell and an active ingredient. As a result, the Examiner argues that there is no special technical feature as required under PCT Rule 13.2 and the two groups cannot be considered linked. However, the Japanese abstract does not anticipate the claimed invention. The specification in the present application discusses that the problem to be solved is the bioavailability of pharmaceutical compounds when taken orally due to the nature of the cell

membrane of epithelial cells. The specification is clear that a "pharmaceutically active compound" means "any therapeutic or otherwise active agent, e.g. a pharmaceutical compound or chemical," and claim 1 requires both a pharmaceutically active compound and a non-encapsulating adjuvant.

The Japanese abstract discusses the problem of producing an anti-fungal composition with a low toxicity. The solution discussed is the creation of a composition including a fungal cell fragment as its active ingredient. A product having a fungal cell fragment AS ITS active ingredient is different than a product having a fungal cell fragment AND an active ingredient. The role of the fungal cell in the Japanese abstract appears to be that of expressing anti-fungal effects while the role of the fungal cell in the present invention is that of allowing an active ingredient other than the fungal cell to be expressed by relaxing the tight junctions of the epithelial membranes.

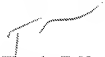
The Group III claims are process claims for using the compositions claimed in Groups I and II, and are highly related to those compositions. Applicant fails to see how examination of the claims of Group III would place any additional burden on the Examiner and restriction is therefore improper. MPEP §803.

As to the election of species requirement, Applicant hereby elects *Ascomicotina*. Each of claims 1 – 22 reads on the elected species.

In light of the foregoing, examination of Groups I-III and early allowance of the application are believed to be in order and are respectfully requested. A fee for a one-month extension of time to respond is believed to be due herewith and a check for $120 is therefore

enclosed. In addition, authorization is hereby given to charge any fees in connection with this or any other communication, or credit any overpayment, to Deposit Account No. 50-1170.

Respectfully submitted,



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